

Paid Preparer's Earned Income Credit Checklist

OMB No. 1545-1629

▶ **Do not send to the IRS. Keep for your records.**

For the definitions of the following terms, see **Pub. 596** for the year for which you are completing this form.

• **Investment Income** • **Qualifying Child** • **Earned Income** • **Full-time Student**

A Taxpayer's name ▶

B If joint return, spouse's name ▶

Part I All Taxpayers

1 Year after 2008 for which you are completing this form ▶

2 Is the taxpayer's filing status married filing separately?

☐ **Yes** ☐ **No**

▶ If you checked "**Yes**" on line 2, **stop**; the taxpayer **cannot** take the EIC. Otherwise, continue.

3 Does the taxpayer (and the taxpayer's spouse if filing jointly) have a social security number (SSN) that allows him or her to work or is valid for EIC purposes? See the instructions before answering

☐ **Yes** ☐ **No**

▶ If you checked "**No**" on line 3, **stop**; the taxpayer **cannot** take the EIC. Otherwise, continue.

4 Is the taxpayer filing Form 2555 or Form 2555-EZ (relating to the exclusion of foreign earned income)?

☐ **Yes** ☐ **No**

▶ If you checked "**Yes**" on line 4, **stop**; the taxpayer **cannot** take the EIC. Otherwise, continue.

5a Was the taxpayer a nonresident alien for any part of the year on line 1?

☐ **Yes** ☐ **No**

▶ If you checked "**Yes**" on line 5a, go to line 5b. Otherwise, skip line 5b and go to line 6.

b Is the taxpayer's filing status married filing jointly?

☐ **Yes** ☐ **No**

▶ If you checked "**Yes**" on line 5a and "**No**" on line 5b, **stop**; the taxpayer **cannot** take the EIC. Otherwise, continue.

6 Is the taxpayer's **investment income** more than the limit that applies to the year on line 1? See Pub. 596 for the limit

☐ **Yes** ☐ **No**

▶ If you checked "**Yes**" on line 6, **stop**; the taxpayer **cannot** take the EIC. Otherwise, continue.

7 Could the taxpayer, or the taxpayer's spouse if filing jointly, be a **qualifying child** of another person for the year on line 1?

☐ **Yes** ☐ **No**

▶ If you checked "**Yes**" on line 7, **stop**; the taxpayer **cannot** take the EIC. Otherwise, go to Part II or Part III, whichever applies.

Part II Taxpayers With a Child

Caution. If there is more than one child, complete lines 8 through 14 for one child before going to the next column.

8 Child's name

9 Is the child the taxpayer's son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, or a descendant of any of them?

10 Is either of the following true?

- The child is unmarried, or
- The child is married, can be claimed as the taxpayer's dependent, and is not filing a joint return (or is filing it only as a claim for refund).

11 Did the child live with the taxpayer in the United States for over half of the year? See the instructions before answering.

12 Was the child (at the end of the year on line 1)—

- Under age 19 and younger than the taxpayer (or the taxpayer's spouse, if the taxpayer files jointly),
- Under age 24, a full-time student, and younger than the taxpayer (or the taxpayer's spouse, if the taxpayer files jointly), or
- Any age and permanently and totally disabled?

If you checked **"Yes"** on lines 9, 10, 11, and 12, the child is the taxpayer's qualifying child; go to line 13a. If you checked **"No"** on line 9, 10, 11, or 12, the child is not the taxpayer's qualifying child; see the instructions for line 12 on page 4.

13a Could any other person check **"Yes"** on lines 9, 10, 11, and 12 for the child?

If you checked **"No"** on line 13a, go to line 14. Otherwise, go to line 13b.

b Enter the child's relationship to the other person(s)

c Under the tiebreaker rules, is the child treated as the taxpayer's qualifying child? See the instructions before answering.

If you checked **"Yes"** on line 13c, go to line 14. If you checked **"No,"** the taxpayer **cannot** take the EIC based on this child and cannot take the EIC for taxpayers who do not have a qualifying child. If there is more than one child, see the **Note** at the bottom of this page. If you checked **"Don't know,"** explain to the taxpayer that, under the tiebreaker rules, the taxpayer's EIC and other tax benefits may be disallowed. Then, if the taxpayer wants to take the EIC based on this child, complete lines 14 and 15. If not, and there are no other qualifying children, the taxpayer cannot take the EIC, including the EIC for taxpayers without a qualifying child; do not complete Part III. If there is more than one child, see the **Note** at the bottom of this page.

14 Does the qualifying child have an SSN that allows him or her to work or is valid for EIC purposes? See the instructions before answering

If you checked **"No"** on line 14, the taxpayer **cannot** take the EIC based on this child and cannot take the EIC for taxpayers who do not have a qualifying child. If there is more than one child, see the **Note** at the bottom of this page. If you checked **"Yes"** on line 14, continue.

15 Are the taxpayer's **earned income** and **adjusted gross income** each less than the limit that applies to the taxpayer for the year on line 1? See Pub. 596 for the limit

If you checked **"No"** on line 15, **stop**; the taxpayer **cannot** take the EIC. If you checked **"Yes"** on line 15, the taxpayer can take the EIC. Complete **Schedule EIC** and attach it to the taxpayer's return. If there are two or three qualifying children with valid SSNs, list them on Schedule EIC in the same order as they are listed here. If the taxpayer's EIC was reduced or disallowed for a year after 1996, see Pub. 596 to see if **Form 8862** must be filed. Go to line 20.

Note. If you checked **"No"** on line 13c or 14 but there is more than one child, complete lines 8 through 14 for the other child(ren) (but for no more than three qualifying children). Also do this if you checked **"Don't know"** on line 13c and the taxpayer is not taking the EIC based on this child.

Child 1	Child 2	Child 3
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
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<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> No		

Part III Taxpayers Without a Qualifying Child

- 16** Was the taxpayer's main home, and the main home of the taxpayer's spouse if filing jointly, in the United States for more than half the year? (Military personnel on extended active duty outside the United States are considered to be living in the United States during that duty period. See Pub. 596.)

☐ **Yes** ☐ **No**

If you checked **"No"** on line 16, **stop**; the taxpayer **cannot** take the EIC. Otherwise, continue.

- 17** Was the taxpayer, or the taxpayer's spouse if filing jointly, at least age 25 but under age 65 at the end of the year on line 1?

☐ **Yes** ☐ **No**

If you checked **"No"** on line 17, **stop**; the taxpayer **cannot** take the EIC. Otherwise, continue.

- 18** Is the taxpayer, or the taxpayer's spouse if filing jointly, eligible to be claimed as a dependent on anyone else's federal income tax return for the year on line 1?

☐ **Yes** ☐ **No**

If you checked **"Yes"** on line 18, **stop**; the taxpayer **cannot** take the EIC. Otherwise, continue.

- 19** Are the taxpayer's **earned income** and **adjusted gross income** each less than the limit that applies to the taxpayer for the year on line 1? See Pub. 596 for the limit

☐ **Yes** ☐ **No**

If you checked **"No"** on line 19, **stop**; the taxpayer **cannot** take the EIC. If you checked **"Yes"** on line 19, the taxpayer can take the EIC. If the taxpayer's EIC was reduced or disallowed for a year after 1996, see Pub. 596 to find out if **Form 8862** must be filed. Go to line 20.

Part IV Due Diligence Requirements

- 20** Did you complete Form 8867 based on information provided by the taxpayer or reasonably obtained by you?

☐ **Yes** ☐ **No**

- 21** Did you complete the EIC worksheet found in the Form 1040, 1040A, or 1040EZ instructions (or your own worksheet that provides the same information as the 1040, 1040A, or 1040EZ worksheet)? . .

☐ **Yes** ☐ **No**

- 22** Did you comply with the knowledge requirements? (To comply with the knowledge requirements, you must not know or have reason to know that any information used to determine the taxpayer's eligibility for, and the amount of, the EIC is incorrect. You may not ignore the implications of information furnished to or known by you, and you must make reasonable inquiries if the information furnished appears to be incorrect, inconsistent, or incomplete. At the time you make these inquiries, you must document in your files the inquiries you made and the responses you received.)

☐ **Yes** ☐ **No**

- 23** Did you keep the following records?

- Form 8867 (or your own form or files),
- The EIC worksheet(s) or your own worksheet(s), and
- A record of how, when, and from whom the information used to prepare the form and worksheet(s) was obtained

☐ **Yes** ☐ **No**

If you checked **"Yes"** on lines 20, 21, 22, and 23, and keep the records described on line 23 for 3 years (see instructions), you have complied with all the due diligence requirements.

If you checked **"No"** on line 20, 21, 22, or 23, you have not complied with all the due diligence requirements and may have to pay a \$100 penalty for each failure to comply.

General Instructions

Do not use this form for a year before 2009. For 2006, 2007, or 2008, use the December 2006 version of this form.

What's New

- A column for a third child has been added to Part II.
- The definition of qualifying child has changed. See lines 10 and 12.

- The tiebreaker rules have also changed. See the instructions for line 13c.

Purpose of Form

Paid preparers of federal income tax returns or claims for refund involving the earned income credit (EIC) must meet the due diligence requirements in determining if the taxpayer is eligible for, and the amount of, the EIC. Failure to do so could result in a \$100 penalty for each failure. See Internal Revenue Code section 6695(g) and Part IV of this form.

Specific Instructions

Line 2

If the taxpayer was married at the end of the year, he or she must usually file a joint return to take the EIC. However, if the taxpayer and his or her spouse did not live together for the last 6 months of the year, the taxpayer may be eligible to use the head of household filing status. See Pub. 501 for details.

Line 3

For purposes of taking the EIC, an SSN issued by the Social Security Administration (SSA) is not valid if "Not Valid for Employment" is printed on the social security card **and** the number was issued solely to apply for or receive a federally funded benefit. Any other SSN issued by the SSA is valid for EIC purposes. You may find it useful to look at the social security card.

Line 8

Enter only the child's first name unless more than one child has the same first name. In that case, enter other identifying information to distinguish between the two children.

Line 9

An **adopted child** is treated as the taxpayer's child by blood. An adopted child is a legally adopted child of the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer.

A **descendant** usually refers to a grandchild or great-grandchild of the taxpayer, or to a child, grandchild, or great-grandchild of the taxpayer's brother, sister, stepbrother, or stepsister.

A **foster child** is a child placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

Line 10

If the child is married but is not filing a joint return (or is filing it only as a claim for refund) and the child's other parent claimed him or her as a dependent under the special rules for children of divorced or separated parents, check "Yes."

Line 11

Even if the child did not live with the taxpayer for the required time, check "Yes" if the exception for a child who was born or died during the year applies. Also, temporary absences may count as time lived at home. Military personnel on extended active duty outside the United States are considered to be living in the United States during that duty period. For details, see Pub. 596.

Line 12

If you checked "**No**" on line 9, 10, 11 **or** 12, but there is more than one child, complete lines 8 through 14 for the other child(ren) (but for no more than three qualifying children). If the taxpayer does not have a qualifying child, go to Part III to see if the taxpayer can take the EIC for taxpayers who do not have a qualifying child.

Line 13c

If you checked "**Yes**" on line 13a, the child meets the conditions to be a qualifying child of both the taxpayer and at least one other person. However, only one of those persons can treat the child as a qualifying child and take, if otherwise eligible, all of the following tax benefits using that child: the child's dependency exemption, the child tax credit, head of household filing status, the credit for child and dependent care expenses, the exclusion for dependent care benefits, and the EIC. The other person(s) cannot take the EIC for people who do not have a qualifying child. In addition, the other person cannot take any of the six tax benefits listed above unless he or she has a different

qualifying child. (There is an exception to this rule if the special rule for divorced or separated parents applies, because the noncustodial parent can claim an exemption and the child tax credit for the child; see *Rule 9* in Pub. 596.)

Tiebreaker rules. To determine which person can treat the child as a qualifying child, the following tiebreaker rules apply.

- If only one of the persons is the child's parent, the child is treated as the qualifying child of the parent.
- If the parents do not file a joint return together but both parents claim the child as a qualifying child, the IRS will treat the child as the qualifying child of the parent with whom the child lived for the longer period of time during the year entered on line 1. If the child lived with each parent for the same amount of time, the IRS will treat the child as the qualifying child of the parent who had the higher adjusted gross income (AGI) for the year entered on line 1.
- If no parent can claim the child as a qualifying child, the child is treated as the qualifying child of the person who had the highest AGI for the year entered on line 1.
- If a parent can claim the child as a qualifying child but no parent does so claim the child, the child is treated as the qualifying child of the person who had the highest AGI for the year entered on line 1, but only if that person's AGI is higher than the highest AGI of any of the child's parents who can claim the child.

For examples and details, see Pub. 596.

In most cases, the taxpayer should be able to tell you whether his or her AGI is higher than the AGI of the child's parents or other person. If you answer "Don't know," you may not have met the due diligence requirements described in Part IV of this form.

Line 14

See the line 3 instructions for the definition of a valid SSN. If the child does not have a valid SSN because he or she was born and died during the year entered on line 1, check "Yes."

Line 23

You must keep the records described on line 23 for 3 years. The 3-year period begins the June 30th following the date you give the return or claim to the taxpayer to sign. These records may be kept on paper or electronically in the manner described in Revenue Procedure 97-22 (or later update). Revenue Procedure 97-22 is on page 9 of Internal Revenue Bulletin 1997-13, which is available at www.irs.gov/pub/irs-irbs/irb97-13.pdf.

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The time needed to complete this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 10 min.; **Learning about the law or the form**, 14 min.; and **Preparing the form**, 48 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. **Do not** send the form to this address. Instead, keep it for your records.